

Minutes of: April 25, 2012
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TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
TUCKAHOE VILLAGE HALL – Special Meeting 7:00pm

Present: Ronald Gallo Chairperson
Nicholas DiSalvo Member
David Kubaska Member

Absent: Steve Alfasi Member
John Palladino Member

Also in Attendance:
John Cavallaro Village Attorney

Chairman Gallo announced the agenda of this Special Meeting as follows:

Item #1 146, 150, 160 Main St. 233 Midland Avenue
Extension for Special Permit Use

Item #1 146, 150, 160 Main St. 233 Midland Avenue

Mr. Null, attorney representing the applicant, noted that this was a very involved project. He requested a two-year extension as the project consists of 4 buildings. He added that once the building gets Planning Board approval, one year would not be enough time. He added that the project was significant with 4 buildings.

Mr. Null asked the Board to consider removing the condition restricting the use of food and restaurant establishments in the commercial property. He noted that the Planning Board encouraged a business of this type in this area of the community. It is understood that the Board of Trustees would have to eliminate the restriction for this type of establishment in this area of the Village.

John Cavallaro, Village Attorney, noted that the Zoning ordinance does not have a clear restriction with the restaurant, cabaret and/or theatre, just that it is incompatible in the Bus/Res district. As for the time limit, the Board could possibly allow a condition for the project to commence in one year and be completed in two years.

Mr. Null added that theatre and cabaret could be excluded, restaurant should not be restricted.

John Cavallaro, Village Attorney, noted that the applicant must still seek Site Plan approval from the Planning Board.

Mr. Raffiani referred to the commercial space at 110 Main St., which states that a successful food service operation could be in the commercial area without any baking on premises.

Mr. Vetromile added that he was in the process of finding tenants for the commercial area and being restricted due to zoning rather than just the planning stage is very different.

John Cavallaro, Village Attorney, stated that the code states that the use is deemed incompatible, but it does not prohibit it. This Board can lift the restrictions for a restaurant and leave the cabaret and theatre.

7:20 Chairman Gallo called for Executive Session.

7:30 Meeting resumed.

John Cavallaro, Village Attorney, stated that this Zoning Board has determined to extend the time periods noted above with regard to all components of the Prior Approvals, including but not limited to the Special Use Permit, area variances and approval to park off-site so that commencement of the Project shall occur within one year and completion thereof within three years of the date of final approval upon the filing of a signed version hereof in the Office of the Clerk of the Village of Tuckahoe.

Member DiSalvo offered the following motion:

A RESOLUTION DECLARING A NEGATIVE DECLARATION UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT AS IT CONCERNS A CERTAIN AREA VARIANCE(S) AND SPECIAL USE PERMIT APPLICATION/EXTENSION FOR THE PREMISES 146, 150 AND 160 MAIN STREET/233 MIDLAND AVENUE, TUCKAHOE, NEW YORK

At a special meeting of the Zoning Board of Appeals of the Village of Tuckahoe, New York (the "Zoning Board") held at Village Hall, 65 Main Street, Tuckahoe, New York on April 25, 2012.

WHEREAS, the Zoning Board of the Village of Tuckahoe is considering the grant and extension of certain area variances and a Special Use Permit for the premises commonly known as 146, 150 and 160 Main Street/233 Midland Avenue, Tuckahoe, New York; and

WHEREAS, the project consists of the development of the site with residential and mixed-use buildings consisting of 108 plus the two units at 146 Main St. residential units and 3,500 square feet of commercial space with off-street parking spaces as required by the Zoning Code of the Village of Tuckahoe; and

WHEREAS, based on the Environmental Assessment Form ("EAF"), submitted by the Applicants, and any supplemental materials thereto, the Zoning Board has determined that there will be no significant environmental impacts from this action as it concerns the proposed Project.

NOW, THEREFORE, BE IT RESOLVED

Section 1. Based on the information included in the EAF submitted by the Applicants, and any supplemental materials thereto and the criteria contained in the State Environmental Quality Review Act and its implementing regulations, the Zoning Board hereby adopts the attached Negative Declaration for this Unlisted Action under the State Environmental Quality Review Act.

Section 2. That this resolution shall take effect immediately.

Member Kubaska seconded the motion and was carried with a vote of 3 – 0.

Chairman Gallo offered the following Resolution as a motion:

In the matter of the Application of Mirado Properties, Inc., Dorami Realty of New York, Inc. and Midora Corp.,

Premises: 146, 150 and 160 Main Street
and 233 Midland Avenue, Tuckahoe, New York,

Background and Findings of Fact

The Applicants are the record owners of the premises commonly known as 146, 150 and 160 Main Street and 233 Midland Avenue, Tuckahoe, New York, and known on the tax map of the Village of Tuckahoe (the “Village”) as Section 29, Block 4, Lots 1, 3-8, 13, 17, 33, 36, 39 and 40 and Section 29, Block 9, Lots 1 and 25 (the “Premises”). The Premises is located within the Business/Residential zoning district and consists of approximately 2.4 acres of land (103,863 square feet), which is located on the south side of Main Street nearby to one of the gateways to the Village.

On March 28, 2008, this Zoning Board of Appeals (the “Zoning Board”) granted a Special Use Permit and certain area variances so the Premises may be developed with four buildings that would improve the Premises with two live/work loft units at 146 Main Street; commercial space and 18 residential units at 150 Main Street; and 70 residential units at 160 Main Street and 233 Midland Avenue (hereinafter referred to as the “Project”). In connection with the Applicants’ then proposal, they sought area variances, a Special Use Permit and approval to park off-site from this Zoning Board.

On April 14, 2010, this Zoning Board by way of a Findings of Fact, Conclusions of Law and Decision filed with the Village Clerk on April 15, 2010 extended for a two-year period the Special Use Permit and area variances then granted to the Applicants. The Applicants now request an additional two-year extension of the area variances and Special Use Permit in connection with the development of the Project.

The present application seeks to develop the Premises with 108 residential units (plus 2 units for 146 Main Street) and 3,500 square feet of commercial space. In its prior application, the Applicants requested area variances from the requirements of the Zoning Ordinance as follows (1) that parcels with land uses in the Business/Residential zoning district with greater than 50% residential use shall have a floor area ratio of no more than 1.2;¹ (2) that no building shall exceed 42 feet in height from the average grade of the street line at the front of the property;² (3) that

¹ See Village of Tuckahoe Zoning Ordinance § 4-5.3.4.

² See Village of Tuckahoe Zoning Ordinance § 4-5.3.3.

no building shall exceed three stories;³ (4) that off-street parking spaces shall be provided and maintained on the same lot as the building or premises for which those spaces are provided, except with permission of the Zoning Board of Appeals to locate such parking on an adjacent lot having a similar owner;⁴ and (5) that a Special Use Permit be granted to allow the proposed buildings having residential uses to be located within a Business/Residential zoning district.⁵

The previous approvals granted for this Project by this Zoning Board (the “Prior Approvals”) were:

1. A Special Use Permit to allow residential units in the BR district; and
2. An area variance for an additional story; and
3. An area variance for an increase in the allowable FAR from 1.2 to 1.48; and
4. An area variance to exceed the height limitation from 42 feet to 43 feet, 9 inches; and
5. To permit parking on an adjacent lot having a similar owner.

In addition to the above, the Applicants also request an area variance to permit residential uses on the ground floor in the Business/Residential zoning district. Although it was implicit in this Board’s prior decisions in granting a Special Use Permit allowing the proposed buildings having residential uses to be located within a Business/Residential zoning district, this Board wishes to make it clear and explicit that an area variance for residential uses on the ground floor in the Business/Residential zoning district has been applied for and is herein granted to the Applicants as set forth herein.

The Nature of the Application

The Premises consists of three lots where several buildings will be constructed and/or converted from a prior use to achieve the goals of this application. On 146 Main Street, an existing two-story industrial building will be converted to a residential building with two dwelling units. Additionally, two underground garages having a total of four parking spaces are still proposed. On 150 Main Street, approximately 18 residential units and 18,500 square feet of commercial space were proposed within a three-story mixed-use building to be constructed. It was proposed that this proposed building will provide approximately 53 on-site parking spaces, with 24 being at-grade level and 29 subsurface parking spaces located below the building.

At 160 Main Street, the Applicants proposed a four-story residential apartment building that will house 55 dwelling units. Finally, it was proposed that the residential building to be constructed at 233 Midland Avenue will house 15 dwelling units. Parking demands for both buildings will be served by on-site and underground parking

³ *Id.*

⁴ See Village of Tuckahoe Zoning Ordinance § 5-1.2(d).

⁵ See Village of Tuckahoe Zoning Ordinance § 6-2.4.

facilities to be constructed at a level lower than that of the proposed buildings and at-grade at 233 Midland Avenue and behind the proposed building at 160 Main Street.

The Applicants have requested an extension of the Special Use Permit and area variances granted by this Board on March 12, 2008, and extended on April 14, 2010, to construct, use and maintain the mixed-use buildings at these Premises. The Applicants are requesting a two-year extension of the Prior Approvals. In addition, the Applicants seek an additional area variance to allow residential uses at the ground floor in the Business/Residential zoning district. In connection with the extension of the Prior Approvals, the Applicants assert there have been no materially changed circumstances since the Prior Approvals were granted. In addition, the Applicants contend that, since the Special Use Permit was granted for residential uses in the BR zoning district and since residential uses were always proposed on the ground floor at certain of the buildings, that implicit in the Prior Approvals was the permission to include residential uses on the ground floor in the BR zoning district. The Zoning Board concurs and wishes to make it clear that it was the intent of the Zoning Board to allow residential uses on the ground floor in the BR zoning district as proposed by the Applicants in its presentation to the Zoning Board.

Conclusions of Law

Based upon the record before the Zoning Board, there have been no materially changed circumstances that would provide a basis for reaching a different determination than that which reasonably and rationally supported the granting of the Prior Approvals. However, the Prior Approvals are modified to reflect the Project as currently proposed.

In granting an area variance, the Zoning Board must consider the following five factors in drawing a conclusion from its analysis:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties?
2. Whether the benefit sought by application can be achieved by a feasible alternative to the variance?
3. Whether the requested variances are substantial?
4. Would the variances have an adverse impact on the physical or environmental conditions in the neighborhood?
5. Whether the alleged difficulty was self-created?

When considering the above factors, the Zoning Board must determine whether the benefit to the Applicants outweighs the detriments to the health, safety and welfare of the adjacent and greater neighborhood and/or community. After applying the above five factor test to this Application, the Zoning Board has resolved to grant this Application because the Applicants' proposal satisfies the above analysis. In considering the nature and scope of the

Applicants' proposal, the Zoning Board has concluded that the extension of the variances previously granted will not have any appreciable negative impacts on adjacent lots or those in the greater community.

1. *Whether An Undesirable Change Would Be Produced In The Character Of The Neighborhood Or A Detriment To Nearby Properties?*

The proposed buildings on 160 Main Street/233 Midland Avenue require area variances for floor area ratio. The floor area ratio for the above-referenced buildings would be 1.48 each, which is fractionally larger than the maximum allowable floor area ratio of 1.2 for lots in the Business/Residential zoning district. *See* Zoning Ordinance Section 4-6.5. Although the floor area ratios would exceed the limits imposed by the Zoning Ordinance, they would be adequately offset by nearby buildings and lots within the Business/Residential zoning district having similar characteristics and dimensions.

The proposed building at 160 Main Street also requires an area variance for height because its four stories exceed the three-story maximum prescribed in the Zoning Ordinance. The proposed three-story building at 233 Midland Avenue, however, will not require a similar area variance. Both proposed buildings at 160 Main Street and 233 Midland Avenue will have the same overall height of 43 feet, 9 inches. Only the proposed building at 160 Main Street will require an area variance for exceeding the height requirements in the Zoning Ordinance by a factor of 1 foot, 9 inches (21 inches), which is a negligible amount. Both proposed buildings remain very similar in their dimensions in light of the required area variances.

The proposed buildings will blend in with the mixed building characteristics and the overall streetscape currently fronting Main Street and Midland Avenue. Moreover, fostering mixed-use developments throughout the Village containing residential and commercial uses is consistent with the goals and objectives set forth in the Master Plan for the Village.

Finally, allowing residential uses on the ground floor will not produce undesirable changes in the character of the neighborhood or a detriment to nearby properties. In fact, these residential uses on the ground floor are consistent with other buildings existing in the nearby neighborhood. On the record before this Zoning Board, there is no evidence that permitting the residential uses on the ground floor will produce detriments in the character of the neighborhood or a detriment to nearby properties.

2. *Whether The Benefits Sought By the Applicants Can Be Achieved By A Feasible Alternative to the Variances?*

The Applicants' proposal seeks to increase both the residential and commercial viability of the Premises. The Premises is located in an area of the Village with parcels zoned for residential, commercial and mixed uses. The Applicants' goals for the proposed mixed-use buildings for residential and commercial purposes include, among other things, providing housing and commercial space in close proximity (i.e., walking distance) to the Tuckahoe railroad station, downtown shopping and restaurants.

Granting area variances for floor area ratio will allow for more expansive, higher-value units in the proposed buildings. Because the proposed buildings will have residential and commercial characteristics, increased floor and interior space can only be achieved by granting area variances for floor area ratio. Due to the increased size of the proposed interior units, the number of stories in each proposed building must be correspondingly increased. Maximizing interior space and tenant occupancy can only be achieved by increasing the number of stories in the proposed buildings.

The height of the proposed buildings will only exceed the height requirements in the Zoning Ordinance by 21 inches, which is de minimis when considering the scope of this Project and the nearby buildings constituting the downtown area of the Village. Thus, based on the configuration of the lots at issue and the interior space requirements for this Project, no other feasible alternative exists absent the granting of the above variances.

In addition, no other feasible alternative exists with respect to permitting residential uses on the ground floor in the BR zoning district. The Applicants have always proposed that, with the exception of the 150 Main Street building, the other buildings would be completely residential in use and would provide for residential uses on the ground floor. Based on the analysis before this Board and feasibility of renters, no other feasible alternative exists with respect to the granting of the instant variance for residential uses on the ground floor.

3. *Whether The Requested Variances Are Substantial?*

The Applicants' requests for the previously granted area variances for floor area ratio are not substantial because only two of the four proposed buildings will exceed the prescribed limits of 1.2 in the Zoning Ordinance. The proposed buildings on 160 Main Street/233 Midland Avenue will be sited and built into the steep topography on the lots, which will situate the proposed buildings significantly lower than a building sited at the sidewalk-grade level. Moreover, the overall size and dimensions of these two buildings are consistent with that of neighboring buildings. These proposed buildings will also require area variances from the three-story maximum prescribed for the Business/Residential zoning district. Only the proposed building at 160 Main Street will require an area variance for a fourth story because it fronts along Main Street, rather than fronting along Midland Avenue.

The proposed building fronting along 160 Main Street is projected to be a height of 43 feet, 9 inches tall, which exceeds the requirements of the Zoning Ordinance by only 21 inches. Despite the proposed building on 160 Main Street having four stories, its height slightly exceeding 42 feet is only several inches taller than that of other proposed buildings on the Premises and nearby in the zoning district. The effects of such small variations will be insignificant. The above area variances will allow for more expansive hallways and interior space in units within the proposed buildings while minimizing the scale of the proposed buildings to the greatest extent possible.

As it concerns the requested variance for residential uses on the ground floor, the substantiality of that variance is of no moment to this Zoning Board in that the variance sought is for ground floor residential uses consistent with the development of surrounding properties in the BR district, which variance and first floor residential uses involve all buildings. As such, this request is not a substantial variance in light of the fact that the Applicants have been proposing residential uses on the ground floor at all buildings since this Project's inception.

4. *Would The Variances Have An Adverse Impact On The Physical Or Environmental Conditions in the Neighborhood?*

This Project has been extensively studied and reviewed by engineers and/or planners. These consultants have proposed adequate structural and environmental safeguards to safely achieve the Applicants' goals for the Premises, without contradicting or negatively affecting any of the environmental considerations set forth in the Master Plan.

The area variances for floor area ratio will allow larger, more expansive units to be built in the two buildings on 160 Main Street and 233 Midland Avenue. This, in turn, will allow increased occupancy on those two lots. Despite increasing occupancy on the lots, a traffic impact study estimated that an additional 90 vehicle trips during AM peak hours and 114 vehicle trips would be added during PM peak hours. This increase will be adequately offset by the increase in off-street parking made available on the Premises.

The required area variances for building height would not create any adverse impacts on the physical or environmental conditions in the neighborhood because the proposed building at 160 Main Street would exceed the maximum height by a factor of 1 foot, 9 inches (21 inches). This building will be exactly the same height as the proposed building on 233 Midland Avenue, both of which are consistent with the character of other buildings nearby. Because the two proposed buildings will be the same height, the effect of adding a fourth story to one will be completely offset. Thus, no net physical or environmental effects will result from granting an area variance for the number of stories.

The proposed buildings will provide marked improvements in comparison to the older uses that once existed on the Premises, which included a recreational vehicle dealership, a vacant lot and an automobile repair facility. In addition, the largely residential uses for the proposed buildings will be less intense than that of the older then-existing buildings on the Premises, which will likely improve physical and environmental conditions in the neighborhood.

The Zoning Board had determined that the requested area variances will produce no adverse impacts on the physical or environmental conditions in the surrounding neighborhood such as poor aesthetics, increased traffic congestion, hazardous traffic rerouting, noise pollution, exhaust fumes or noxious odors, increased surface runoff, an increase in impervious surface coverage, poor drainage, sewerage problems, steep slope erosion, subsidence, or any other negative environmental consequences. Thus, the physical and environmental conditions of the Premises will not negatively affect surrounding properties or the greater community whatsoever.

As the variance for residential uses on the ground floor is concerned, there is no evidence on this record that permitting residential use, as opposed to commercial uses, on the ground floor of the Project will produce greater negative environmental impacts or environmental detriments to the surrounding community. On this record, it is clear that environmental impacts on the surrounding community will not be produced as a result of permitting residential uses on the ground floors of the Project's buildings.

5. *Whether The Alleged Difficulty Was Self-Created?*

On the facts and the record, the Applicants' alleged difficulty was not self-created. While it is possible to construct a smaller building at 160 Main Street, this would not run afoul of the development goals for the Premises, which will contribute to a more uniform pattern of development along a mixed-use corridor into the downtown area. Moreover, any self-created difficulties arising from or accompanying this Project are not fatal to the application.

The Applicants have proposed a nonconforming floor area ratio in one proposed building (160 Main Street). However, the overall dimensions of the proposed building are similar to that proposed for the 233 Midland Avenue building. Because the frontward orientation of the proposed buildings for 160 Main Street and 233 Midland Avenue are treated differently under the Zoning Ordinance, in this respect, the Applicants' hardship is not self-created.

Moreover, the proposed building for 160 Main Street requires an additional 21 inches in height, which is a minimal nonconformity considering its overall similarity to the proposed building at 233 Midland Avenue. The area variance for the number of stories at the proposed building for 160 Main Street is a self-created hardship but the overall building height remains largely conforming despite adding another story.

According to the plans submitted to the Zoning Board, every effort has been taken to ensure that the proposed residential apartment building at 160 Main Street will be minimally imposing and will blend in with the aesthetic, structure and scale of other buildings fronting along Main Street and in the Business/Residential zoning district. The Applicants' difficulty is not self-created in that it fosters residential uses in an area near the central business district of the Village, and in upgrading commercial area aesthetics to create a "more inviting and exciting image of the Village for its merchants."

Arguably, the variance request concerning residential uses on the ground floor of the Project is self-created; however, such self-created hardship is not fatal to this application in that the Applicants have proposed residential uses on the ground floor in connection with this Project since its inception.

The above area variances would have no appreciable impacts on the community and would establish consistent precedent for future developers in the area. Thus, the Zoning Board has resolved to grant the extension of the above-referenced area variances for this Project, and further grant an area variance for residential uses on the ground floor as set forth in the Applicants' plans.

Special Use Permit

Pursuant to Section 6-1 of the Zoning Ordinance, the Zoning Board is granted the authority to issue Special Use Permits as set forth in the Zoning Ordinance. "Any use designated in a given district as requiring a special use permit shall be deemed to be a permitted use in such district subject to satisfaction of the conditions and standards set forth in this article in addition to all other requirements of this Zoning Ordinance." Zoning Ordinance, Section 6-1.1.

More specifically, the standards prescribed in Section 6-1.6 for all Special Use Permit uses must be satisfied along with more specific requirements set forth in Section 6 of the Zoning Ordinance, which pertain to Business/Residential zoning districts. Pursuant to Section 6-2.4 of the Zoning Ordinance, any new buildings or premises contemplating residential uses within a Business/Residential zoning district must comply with the requirements set forth more fully below.

A. Residential Uses in Business/Residential Zone

1. Planning Board

Before this application was brought before the Zoning Board, it was first presented to the Planning Board of the Village of Tuckahoe for a preliminary review. The Planning Board offered comments to the Project, but did not make any specific recommendations or referrals in connection with the variances requested herein. The Planning Board specifically reserved its rights to conduct a complete site plan review after the granting of the Zoning Board

relief sought herein. On December 20, 2011, the Planning Board granted amended site plan review for the Project. Thus, this application has been given adequate consideration by the Planning Board.

2. *Separate Entrances*

The proposed buildings on the Premises will be dedicated to either commercial or residential uses. Consistent with Section 6-2.4 of the Zoning Ordinance, the residential units for 146 Main Street will be accessible via separate entrances. The proposed residential units for 150 Main Street will have separate entrances as well. Commercial uses on the first floor of 150 Main Street will also have separate access from Main Street. The residential units in the proposed building for 160 Main Street and 233 Midland Avenue will also have separate, dedicated access. Thus, the Project will provide adequate and separate entrances and/or access points to the proposed buildings on the Premises.

3. *Compatibility of Use*

The residential uses contemplated by this Project are compatible with the Zoning Ordinance's strictures. In determining whether proposed commercial uses are compatible with the residential use of the Premises, the Zoning Board considered environmental factors, surrounding uses and expected traffic volume.

The contemplated use on the Premises will be less intense than the older existing uses for the Premises, which included an automotive repair shop and a recreational vehicles dealership, both of which had contributed noise and fumes as well as the handling of solid and/or hazardous wastes on-site. The proposed use for the Premises will be primarily residential, which is consistent with uses along the residential corridor extending from the downtown to outer areas of the Village. Factors such as noise, pollution and traffic volumes will not be appreciably affected by the minor anticipated increase in vehicle traffic to the Premises and the surrounding area as a result of granting approval for this Project.

4. *Building Context*

In granting this application, the Zoning Board has considered the effects of the proposed buildings on adjacent and nearby buildings in the community. Three of the four proposed buildings will remain compliant with the height limitations of 42 feet for buildings in the Business/Residential zoning district. Additionally, the design will incorporate an aesthetic that is similar in character and blends in with the surrounding streetscape in the zoning district, with the goal of creating an inviting streetscape and aesthetic.

The overall dimensions of the proposed buildings will be no larger than that of other buildings that front along Main Street and the surrounding neighborhood. The Applicants have made extensive efforts to blend and incorporate the proposed buildings into the existing topography. Although the proposed building at 233 Midland Avenue will have three stories and will exceed the height limits in the Zoning Ordinance by approximately 21 inches, it will be adequately set back and built into the topography of the Premises at 233 Midland Avenue to be as unimposing as possible. Thus, the proposed buildings will remain consistent with the surrounding context of adjacent and nearby buildings that make up the Business/Residential zoning district.

B. Standards For All Special Permit Uses

1. Compatibility with district

This Zoning Board has resolved that the proposed use of the Premises is both harmonious and consistent with the uses prescribed for the Business/Residential zoning district. This Project will help foster orderly, consistent development within the Business/Residential zoning district fronting Main Street. The dimensions and aesthetic of the proposed buildings will compliment adjacent and nearby buildings in the zoning district and will further the goals of the Business/Residential zoning district. Despite the fact that some of the proposed buildings will house dwelling units, the occupants will be in close proximity to the downtown business district and commercial zones in the Village. The proposed buildings will furnish residential, commercial and other business services to residents and nonresidents of the Village of Tuckahoe, which is an expressly permitted use within a Business/Residential zoning district. *See* Zoning Ordinance Section 4-6.1(a)(1).

2. Compatibility With Master Plan

The Project would be compatible with the Master Plan because one of its goals is to foster commercial and residential development on property fronting along Main Street. The Master Plan seeks to foster economic development by improving overall building aesthetics and by creating an inviting commercial environment to merchants.

The Village Master Plan was amended and specifically identified the Premises as being within a mixed-use zoning district. The Premises was also rezoned from Industrial to Business/Residential in April 2007, consistent with the amendments to the Master Plan. Thus, the nature and scope of this Project are consistent with the Village's Master Plan. The Village has, in turn, brought its Master Plan and Zoning Ordinance up to date with changing goals for mixed-use zoning districts and the development of the downtown area.

Drawing on the goals of the Master Plan, extension of the Prior Approvals and the grant of the variance herein for this Project will increase revenue for local business owners, increase commercial thoroughfare, increase property values in the Village and further promote developing interest in economic revitalization of commercially viable zoning districts in the Village; these are goals that may be logically drawn from the Master Plan. Thus, this Project is clearly harmonious with the above express and implicit goals.

3. *Services*

The proposed buildings will be readily accessible for fire and police protection. The building is located on a public street that is navigable by fire and police protection services. Nothing in this record or in any presentations before the Zoning Board suggests that police or fire protection services will be diminished or in any way hindered by this Project.

4. *Adjacent Properties*

The location, nature and height of the proposed buildings will not hinder or discourage development and use of adjacent buildings. The Premises is situated in a part of the Village that is zoned for mixed or combined residential and business uses. From any perspective in the Village, the height and dimensions of the proposed buildings will not exceed that of any surrounding buildings. Thus, the building height is compatible with Business/Residential uses in this zoning district.

This Project will likely increase property values of adjacent properties and could generate similar interest in developing other areas or corridors of the Village. This Project will add consistency and continuity to the existing corridor connection to the downtown area. Thus, the properties adjacent to that of the proposed building will suffer no injury or deleterious effects from this Project.

5. *Nuisance*

The nature and scope of the residential and commercial uses of the Premises will be such that no noise, fumes, vibration, flashing of lights or other similar nuisance conditions to the surrounding neighborhood will occur. Additionally, no offensive, dangerous, destructive or hazardous conditions affecting the health of the surrounding community will be produced as a result of this Project and its proposed uses.

6. *Neighborhood Character and Property Values*

On the record before the Zoning Board, there is no evidence that the property values of adjacent and nearby lots in the community will be diminished by extending the Prior Approvals for this Project and granting the area variances for residential uses on the ground floor. This Project will bring with it more residential tenants to an area in

close proximity to Main Street and an increase in commercial activity to the area. This will add to the Village's overall economy, tax base, school district support, diversity, housing availability, off-street parking and will extend the residential corridor into the downtown area.

As a result of the influx of capital, economic support to the area and overall appeal of this Project, property values for lots adjacent to and nearby the Premises could likely increase. This Project will also enhance pedestrian access to the downtown area and to the Tuckahoe railroad station. These potential changes in neighborhood character and property values would generate indisputably positive socioeconomic results for the Village.

7. *Traffic*

The Zoning Board recognizes that the proposed buildings could produce a traffic increase on public roadways leading to the Premises. All efforts have been undertaken to design and plan this Project so as to generate as little traffic and congestion as possible on local thoroughfare(s). The results of the traffic impact study indicated that an increase of approximately 90 new vehicle trips during AM peak hours and 114 additional trips during PM peak hours could result from this Project.

The traffic impact study concluded that, despite the above increases, the impact on traffic flow on Main Street would be mitigated by the availability of on-site (off-street) parking and the multitude of new entrances and exits to the Premises on nearby roads other than Main Street. Additionally, the traffic impact study concluded that no net effects would impact pedestrian traffic and the existing capacity of nearby sidewalks along Main Street and Midland Avenue.

Any increase in traffic to the area, however, will be mitigated by the off-street parking facilities proposed to service the Premises. Thus, the Zoning Board has determined that the effects on traffic from this Project would be reasonable in nature.

8. *Parking*

Pursuant to Section 5-1 of the Zoning Ordinance, a minimum number of off-street parking spaces are required to accommodate the number of residential occupants and commercial patrons in the proposed buildings on the Premises. The proposed buildings on 146 Main Street and 233 Midland Avenue will conform to the Zoning Ordinance. Approval is required for the off-street parking on 150 and 160 Main Street because the approximately 76 planned parking spaces cannot feasibly be located on 150 Main Street. Thus, parking has been reallocated and added to that of 160 Main Street. The net effect of the above reallocation of off-street parking spaces will make available the required number of off-street parking spaces for the proposed buildings on 150 and 160 Main Street.

Although the proposed parking for 150 and 160 Main Street would be nonconforming, the additional approximately 76 off-street parking spaces added to 160 Main Street, which is another lot owned and controlled by the Applicants, is permissible under the Zoning Ordinance. *See* Zoning Ordinance, Section 5-1-2. Because these additional approximately 76 off-street parking spaces on 160 Main Street will be located within reasonable distance of the proposed building on 150 Main Street, granting the above approval for off-street parking is justified. *Id.* Thus, the Zoning Board has resolved that the above approval is harmonious with the Zoning Ordinance and with its goals for a Business/Residential zoning district, thus the same is hereby granted.

9. *Conformance with Regulations*

Except for requirements concerning floor area ratio, the number of stories and height, the Applicants have complied with the requirements for lot area, lot width, frontage, side yard setback, front yard setback, rear yard setback and building coverage. Based on the foregoing, this Board finds that the Applicants have reasonably satisfied the general conditions applicable to the issuance of Special Use Permits as set forth in the Zoning Ordinance for the Village.

SEQRA

Based on the foregoing, the Zoning Board of Appeals of the Village of Tuckahoe finds and determines that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA.
2. This Zoning Board of Appeals is in possession of all information reasonably necessary to make the determination as to environmental significance of the application for area variances and the proposed Special Use Permit.
3. The action taken herein shall not have any significant impacts upon the environment and declare that a Negative Declaration be adopted with respect to this action.

Conclusion

Based on the foregoing, it is resolved that the area variances referenced herein and the Special Use Permit that were previously granted pursuant to the Prior Approvals and as granted herein are hereby granted to the Applicants. This Zoning Board has determined to extend the time periods noted above with regard to all components of the Prior Approvals, including but not limited to the Special Use Permit, area variances and approval to park off-site so that commencement of the Project shall occur within one year and completion thereof within three years of the date of final approval upon the filing of a signed version hereof in the Office of the Clerk of the Village of Tuckahoe. The Applicants and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance the New York Civil Practice Law and Rules.

SCHEDULE A

CONDITIONS TO A CERTAIN GRANT OF AN AREA VARIANCE AND A CERTAIN EXTENSION APPROVAL FOR A SPECIAL USE PERMIT AND AREA VARIANCE EXTENSION GRANTED TO MIRADO PROPERTIES, INC., DORAMI REALTY OF NEW YORK, INC. AND MIDORA CORP. FOR THE PREMISES 146, 150 AND 160 MAIN STREET/233 MIDLAND AVENUE, TUCKAHOE, NEW YORK FROM THE ZONING BOARD OF APPEALS OF THE VILLAGE OF TUCKAHOE

1. In no event shall the number of residential units associated with the Project exceed 108 residential units (plus 2 units for 146 Main Street). In the event the Applicants seek to increase the number of residential units, such increase shall require the further approval of this Zoning Board of Appeals.
2. In no event shall the commercial/retail space on the ground floor of the Project exceed 3,500 square feet. In the event the Applicants seek to increase the square footage of the commercial/retail space, such increase shall require the further approval of this Zoning Board of Appeals.
3. In no event shall the floor area ratio for the Premises and proposed buildings exceed 1.48. In the event the Applicants seek to increase the floor area ratio for the proposed building and/or the Premises, such increase shall require the further approval of this Zoning Board of Appeals.
4. The residential component of the Project shall be limited to 108 residential units (plus 2 units for 146 Main Street) with no more than 54 two-bedroom units and no three-bedroom units other than 146 Main Street. Any deviation from this condition shall require the further approval of this Zoning Board of Appeals.
5. The commercial component of this Project consisting of 3,500 square feet of commercial space shall not be used for restaurants, food-related uses (any business where food is served, sold or prepared), theaters or cabarets.
6. In no event shall the number of off-street parking spaces for this project be less than that required by the Zoning Code of the Village of Tuckahoe. In the event the Applicant seeks to decrease the number of parking spaces below that required by the Zoning Code of the Village of Tuckahoe, such decrease shall require the further approval of this Zoning Board of Appeals.
7. That the extension granted herein shall be good and valid through April 24, 2013.

John Cavallaro, Village Attorney, announced a few corrections to the resolution. (The above copy is the revised and correct copy, but for the record, the corrections will be stated here.) He added that any reference to 233 building being four stories be changed to three stories.

- Pg. 4 Commissioner Gallo read March 14, 2012, the correct date is April 14, 2012
- Pg. 6, 15 The building 233 - four story building should be written as a three story building
- Pg. 9, 10 The statement 'with the exemption of building 150' should be stricken from the record.
- In Schedule A, #4 add the clause 'other than 146 Main Street.'

Member DiSalvo seconded the motion and was carried unanimously with a vote of 3 – 0.

There being no further comments from the public or business before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.